

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

UNITED STATES OF AMERICA,)
)
)
v.) CR608-034
)
)
MICHAEL SHANE ALLEN,)

REPORT AND RECOMMENDATION

Defendant Michael Shane Allen is before the Court for alleged violations of the conditions of his supervised release. *See* doc. 38. The Court granted his unopposed motion, through counsel, for a forensic psychological examination, in accordance with 18 U.S.C. § 4241(a) and (b), to assess both his mental competency and his criminal responsibility. Doc. 60. He has since had a comprehensive psychological evaluation at the Federal Medical Center in Lexington, Kentucky. *See* doc. 63. The examining doctors concluded that defendant is competent, and, in a separate addendum, that he was sane. *Id.*

The Court held a competency hearing on April 20, 2017. One of Allen's evaluators, forensic psychologist Dr. Allison N. Wood, opined that he is able to understand the nature and consequences of the proceedings

against him and is able to assist in his defense. Dr. Wood also testified that Allen expressed to her his belief in his own competence. Finally, she testified that nothing that she has learned since her evaluation, nor any matter raised in defense counsel's questions, nor anything that she observed at the hearing lead her to question the determination that Allen was competent. Allen's comportment at the hearing, while occasionally defiant, further supports the conclusion that he understands the nature of the proceedings and he is *able*, whether or not he is willing, to assist in his defense.

Since Allen has presented no evidence undermining the conclusion of the examining physicians, the Court concurs with the report's findings and concludes that Allen is not presently suffering from a mental disease or defect rendering him mentally incompetent to proceed. It is therefore **RECOMMENDED** that defendant be found competent to proceed pursuant to 18 U.S.C. § 4241.

This Report and Recommendation (R&R) is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court

and serve a copy on all parties. The document should be captioned “Objections to Magistrate Judge’s Report and Recommendations.” Any request for additional time to file objections should be filed with the Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge’s findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; *see Symonett v. V.A. Leasing Corp.*, 648 F. App’x 787, 790 (11th Cir. 2016); *Mitchell v. U.S.*, 612 F. App’x 542, 545 (11th Cir. 2015).

SO REPORTED AND RECOMMENDED, this 21st day of April, 2017.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA